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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/898,754	07/03/2001	William E. Saltzstein	PHYS116783	5287

7590

10/22/2003

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EXAMINER
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EVANISKO, GEORGE ROBERT

ART UNIT	PAPER NUMBER
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3762

DATE MAILED: 10/22/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/898,754

Applicant(s)

SALTZSTEIN ET AL.

Examiner

George R Evanisko

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 04 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-73 is/are pending in the application.
- 4a) Of the above claim(s) 10-14 and 21-73 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 15-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5. 6) ☐ Other: \_\_\_\_\_

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## DETAILED ACTION

### *Election/Restrictions*

Claims 10-14 and 21-73 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to nonelected inventions, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 12.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1-3, 7, and 15-17 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Morgan et al (5593426).

Claims 1-4 and 15-18 are rejected under 35 U.S.C. 102(a) as being anticipated by the Applicants own admission. Figure 1 and page 2, line 12 to page 3, line 9, in applicants specification describe a prior art or conventional system that meets the limitations of the claims.

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 4 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morgan et al. Morgan uses RF signal carriers and cellular telephone links which are a specialized mobile radio network. In addition, Morgan detects movement of a defibrillator operation parameter such as battery voltage.

In the alternative, Morgan discloses the claimed invention except for the network being a specialized mobile radio network and the status assessment being the power supply voltage level. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the defibrillator and base station communication system as taught by Morgan, with the communication system using a specialized mobile radio network and the status assessment being the power supply voltage level since it was known in the art that communication systems use specialized mobile radio networks to provide a conventional communication network that can easily and inexpensively transfer data on existing networks and since it was known that defibrillators take status assessments of the power supply voltage level to allow the operator/physician/technician to know the level of the power supply to determine if the defibrillator will operate correctly or if the power supply needs to be changed.

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Claims 5, 6, 8 and 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morgan et al. Morgan discloses that the base communication station may include a computer or a microprocessor controlled device that can include a modem and therefore provides the control unit, interface and user interface of the base/remote station. In the alternative, see the rejection below.

Morgan discloses the claimed invention except for the communication network being a two way paging network (claims 5 and 20), a wired digital data network (claim 6), a wireless LAN (claim 18), and a digital personal communication service network (claim 19), and the remote monitoring service comprising a control unit to initiate communication, an interface to support communication, and a user interface with a display to transfer information between a user and the control unit (claim 8). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the defibrillator and base station communication system as taught by Morgan, with the communication network being a two way paging network (claims 5 and 20), a wired digital data network (claim 6), a wireless LAN (claim 18), or a digital personal communication service network (claim 19), and the remote monitoring service comprising a control unit to initiate communication, an interface to support communication, and a user interface with a display to transfer information between a user and the control unit since it was known in the art that communications systems use the communication network being a two way paging network (claims 5 and 20), a wired digital data network (claim 6), a wireless LAN (claim 18), or a digital personal communication service network (claim 19) to provide a conventional communication network that can easily and inexpensively transfer data on existing networks and since it was known in the art that

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base/remote stations comprise a control unit to initiate communication, an interface to support communication, and a user interface with a display to transfer information between a user and the control unit to provide an operator friendly device that is easy to operate, that allows the base station to communicate with the medical device, and that allows the operator to control the base station and examine data on the display.

In addition, it would have been an obvious matter of design choice to a person of ordinary skill in the art to modify the defibrillator and base station communication system as taught by Morgan with the communication network being a two way paging network (claims 5 and 20), a wired digital data network (claim 6), a wireless LAN (claim 18), or a digital personal communication service network (claim 19), because Applicant has not disclosed that the communication network being a two way paging network (claims 5 and 20), a wired digital data network (claim 6), a wireless LAN (claim 18), or a digital personal communication service network (claim 19), provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with two way communication system using telephone, cellular or RF signal carriers as taught by Morgan, because they provide a two way communication system that uses existing networks to easily and inexpensively transfer data.

Therefore, it would have been an obvious matter of design choice to modify Morgan to obtain the invention as specified in the claim(s).


*Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Brystrom et al is one teaching of many showing the use of a paging network for communication. Duffin, Begun et al, or Rockwell et al, are teachings of the requirements of the base station. Powers et al is one teaching of many showing the state assessment of power supply voltage level.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to George R Evanisko whose telephone number is 703 308-2612. The examiner can normally be reached on M-F 6:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Sykes can be reached on 703 308-5181. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308-1148.

  
George R Evanisko  
Primary Examiner  
Art Unit 3762  
10/20/03

GRE  
October 20, 2003